IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3691 of 1998

with

FIRST APPEAL NO.3692 OF 1998

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KALIBEN RAMANBHAI NINAMA

Versus

AKBAR AMIRKHAN

Appearance:

MR MUKESH R SHAH for Petitioners

DELETED for Respondent No. 1

NOTICE UNSERVED for Respondent No. 2

MR JD AJMERA for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 21/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. We have heard learned counsel for the appellant and learned counsel for respondent no.3 Insurance Company. Appeals admitted. Mr. J.D. Ajmera, learned counsel for the Insurance Company waives service of notice of appeal.

2. The respondent no.1 has already been deleted earlier by order dated 6th September 2000. On the request of learned counsel for the appellant, respondent no.2 is also permitted to be deleted.

3. On a joint request of learned counsel for the appellant and learned counsel for the respondent no.3 the appeals are taken up for final hearing today.

4. These are appeals under section 173 of the Motor Vehicles Act, 1988 challenging the award passed by the Motor Accident Claims Tribunal, Nadiad, under section 168 of the said Act.

5. The appellants are the original claimants who challenge the award only on the ground and to the extent where interest on the compensation amount has been restricted on peculiar and unusual grounds.

6. The Tribunal has awarded interest on the compensation amount at the rate of 4% from the date of application upto 4th June 1998, and at the rate of 12% thereafter upto realisation.

7. The Tribunal has restricted the interest on the compensation amount for the specified period by discussing the various adjournments granted during the pendency of the claim petition, and the delay caused in the disposal of the claim petition on account of these adjournments.

8. Without going into a detailed discussion of the specific days on which adjournments were granted by the Tribunal, we find that it is significant to note that it was not urged by the insurer before the Tribunal that the interest payable on the compensation amount should be restricted in any manner, particularly on the ground that it was the claimants in the petition who were responsible

for the time taken in the disposal of the claim petition. It appears that this restriction has been imposed by the Tribunal on its own appreciation of the situation. It is a well known fact that there is considerable delay in disposal of the matters, and that there are different causes for delay in different courts obviously because different circumstances prevail from court to court or from case to case.

9. However, on the facts of the case, as a result of the hearing and discussion, learned counsel for the parties have arrived at a consensus on the basis of which learned counsels are prepared to leave to this court the question of modification of the impugned order relating to interest, without requiring detailed reasons therefor.

10. Having taken into consideration all the relevant facts which have been discussed in the impugned judgement and also having heard learned counsel on both the relevant and ancillary facts which would affect the question, we find that the restriction imposed by the Tribunal for a lower rate of interest for the specified period, is not justified. We, therefore, hold and direct that the appellant shall be entitled to interest on the compensation amount awarded by the Tribunal at a uniform rate of 10% per annum from the date of filing of the claim petition until realisation.

11. The impugned judgement and awards are modified only to the aforesaid extent. These appeals are accordingly partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

****

ar